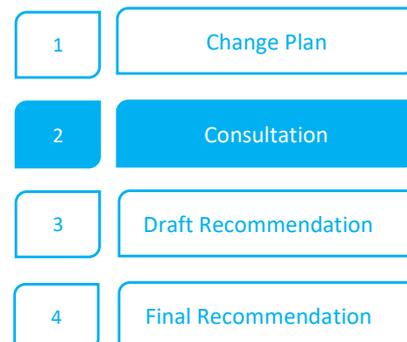




Consultation

Strategic Roadmap for Governance of the Non-Household Water Market (CPM021/CPM039/CPM040/CPW121)

What stage is this document in the process?



Summary

This document introduces the Strategic Roadmap adopted by the Non-Household Business Water Market Panel and its consultations on how this will be delivered.

Actions

Stakeholders should read this document in conjunction with the consultations on Panel Purpose, Panel Composition and Code Principles.

Trading Parties, customers, industry groups and other interested stakeholders are invited to respond to any or all these consultations.

Consultation timeline

24 May 2021 to 18 June 2021

Related documents

- [Panel Purpose consultation](#)
- [Panel Composition consultation](#)
- [Code Principles consultation](#)

Any Questions?

Contact:

codechange@mosl.co.uk



Contents

1. Contents.....	2
1. Purpose of this document.....	3
2. Consultation documents.....	3
3. Background.....	4
4. Timescales.....	4
5. Consultations.....	5
6. How to Respond.....	6

This document is part of the [Governance Review consultations](#) on behalf of the Panel. It sets out the background to the Panel’s strategic roadmap and introduces the consultations on Panel Purpose, Panel Composition and Code Principles.

Stakeholders should read this document in conjunction with the three consultation documents and are invited to respond to any or all the consultations using the online forms by **Friday 18 June 2021**.

If you require any assistance, please contact the Panel Secretariat at codechange@mosl.co.uk.



1. Purpose of this document

This document provides background to the strategic roadmap adopted by the non-household business water market Panel and introduces three consultations on Panel Purpose, Panel Composition and Code Principles that underpin the strategic roadmap.

Stakeholders should read this document in conjunction with the consultation documents and are invited to respond to any or all the consultations using the online forms. The consultation will close on **Friday 18 June 2021**.

If you require any assistance, please contact the Panel Secretariat at codechange@mosl.co.uk.

2. Consultation documents

There are separate consultations on Panel Purpose, Panel Composition and Code Principles. The Panel Purpose Discussion Document should be reviewed first as this sets the context for the other consultations. Responses to questions on Page 7 of the Panel Purpose Consultation can be submitted using the Panel Purpose Online Response Form.

Panel Purpose Discussion Document

Panel Purpose Online Response Form
--

To realise the Panel purpose, the composition of the Panel and the principles in the market codes, that underlie its decision making, are also being reviewed. Consultations on these are being conducted concurrently:

- The Panel Composition Consultation Document describes and contrasts two proposals for Panel composition. Responses to questions on Page 14 of the Panel Composition Consultation can be submitted using the Panel Composition Online Response Form
- The Code Principles Consultation document proposes new principles to be included in the market codes. Responses to questions on Page 5 of the Code Principles Consultation can be submitted using the Code Principles Online Response Form.

Supporting documents for these consultations have also been provided. These provide more detail on the proposed Panel compositions, illustrative terms of reference and proposed code principles. Legal drafting changes to the market codes to deliver these proposals will be added during the consultation.

Panel Composition Consultation Document

Panel Composition Supporting Documents
--

Panel Composition Online Response Form
--

Code Principles Consultation Document

Code Principles Supporting Documents
--

Code Principles Online Response Form
--

Further information on the Market Governance Review and the proposed changes to the market codes is available on the [MOSL website](#).



3. Background

The [Open Water](#) project introduced competition in supply of water and sewerage services to non-household customers in April 2017. Businesses, charities, and public sector customers in England and those in Wales with consumption greater than 50 megalitres/year are no longer restricted to buying water and sewerage services from regional water companies and are free to choose their water and sewerage retailers.

Retailers continue to procure water and sewerage services from regional water companies but can offer these to their customers under different terms and conditions and may bundle them with other services e.g. water efficiency initiatives.

The commercial and operational relationship between regional water companies (Wholesalers), water and sewerage retailers (Retailers) and the market operator (MOSL) are set out in the Market Arrangements Code and the Wholesale-Retail Code (Market Codes). The Market Codes established a Panel of industry and independent members whose responsibilities include reviewing and developing the Market Codes, monitoring market performance, and resolving disputes between parties.

In August 2020, Ofwat published its [Review of Incumbent Support for Effective Markets \(RISE\)](#). This highlighted that the industry-led approach to market governance could be improved to further strengthen the customer voice and better facilitate innovation. It also highlighted concerns around companies actively opposing or delaying initiatives aimed at improving the effectiveness of markets and commercial interests being pursued at Panel and Committee meetings despite the requirement to act independently. Market governance needed to support real change to deliver improved outcomes for customers, the environment and society more generally, rather than focusing on minor amendments that reinforce or merely tinker with the status quo.

The Panel commissioned Satori Board Review to review its effectiveness and its [findings and recommendations](#) were presented to and accepted by the Panel in February 2021. Satori noted that the Panel had been established as a transactional body to assess changes to the Market Codes. Whilst many of these changes have been proposed by sub-committees of the Panel, some stakeholders expected the Panel to take a more strategic and proactive role in developing a robust and sustainable market for the benefit of current and future customers. These different expectations lead to varied perceptions of the Panel's effectiveness.

Satori proposed 42 recommendations encompassing a strategic roadmap and a service roadmap. The strategic roadmap is the subject of this consultation document and comprises three elements:

- Review and redefine the purpose of the Panel
- Design the Panel composition to ensure it has the requisite skills, knowledge, and resource to deliver its purpose.
- Refresh the principles that underlie market changes to ensure alignment with strategic aims.

4. Timescales

In February 2021, Ofwat granted an [extension](#) to the term of the current panel to 30 September 2021. This extension allowed Panel elections due to take place in March 2021 to be deferred to



September 2021 and so ensure continuity of the Panel as it reviewed the above elements and avoid the need for two elections in quick succession.

Any changes in Panel composition and appointment processes are expected to be implemented before the deferred election in September. Therefore, Ofwat's decisions on Panel composition and appointment processes, will need to be made by the end of July 2021 to allow time for industry nominations before the new Panel is appointed. Whilst the three elements of these consultations are obviously linked, the Panel recognise the considerable industry resource needed to respond to this combined consultation. However, the proposed timetable drives the need for these consultations to be held now, with all three elements considered concurrently.

5. Consultations

5.1 Panel Purpose

The Panel approved a discussion document on Panel purpose at its April 2021 meeting. This document was compiled in consultation with Panel members, its committees, and senior stakeholders including Ofwat, Defra, Consumer Council for Water (CCW) and MOSL.

The document discusses why the industry has a panel, what responsibilities it should have and criteria for assessing Panel design and decision making. Examples of different panel models are also presented which are reflected in the consultation on Panel composition. Stakeholders are invited to respond to questions on market governance arrangements posed in the Panel Purpose Discussion document. These responses will be used to inform Panel and Ofwat thinking on Panel purpose.

5.2 Panel Composition

The Panel has received two code change proposals relating to Panel composition. [CPM021: Panel Membership and voting rights](#) was proposed by Castle Water in November 2019 and seeks to improve industry engagement in the Panel. [CPM039: Revisions to the Panel Composition](#) was proposed by Ofwat in April 2021 and seeks to fill the perceived gap in the industry to operationalise market strategy developed by Ofwat and Defra.

The Panel commissioned a [Governance Sub-group](#) to develop these two change proposals. The sub-group has worked with both proposers to develop their solutions significantly from the original change proposals. Both CPM021 and CPM039 propose a combination of the example models in the Panel Purpose discussion document. Both include a strategic panel to actualise market strategy set by Ofwat and Defra and a dedicated code change committee to manage day to day change. However, the proposals vary in composition, appointments, and industry engagement and the questions posed in the Panel Composition Consultation seeks feedback on these aspects. Feedback on both proposals and on the Panel Purpose discussion document will be considered before final solutions are proposed to the Panel and Ofwat.



5.3 Code Principles

The Panel has received a code change proposal relating to code principles. [CPW121/CPM040 MAC and WRC Principles](#) was proposed by Ofwat in April 2021 and seeks to review the principles in the Market Arrangements Code and the Wholesale-Retail Code that underlie Panel decision making.

The Panel also commissioned the [Governance Sub-group](#) to develop this change proposal. The sub-group has worked with the proposer to develop a proposed set of principles, and potential variants for consideration.

Stakeholders are invited to respond to the questions posed in the Code Principles Consultation. Responses will be considered by the proposer and the governance sub-group before the final solution(s) are proposed to the Panel and Ofwat.

6. How to Respond

Responses to the three consultations should be submitted using the online forms linked below. Responses should be received by **Friday 18 June 2021** to be included and the Panel Secretariat will confirm receipt of each response.

Responses will normally be treated as public and published on MOSL's website. The governance sub-group, the Panel and Ofwat will be provided with the responses together with a summary of themes that will also be published on MOSL's website.

If stakeholders wish to respond confidentially or anonymously, they should inform the Panel Secretariat which responses they wish to be kept confidential or anonymous and if confidential responses can be shared with the governance sub-group and Panel whose members are bound by confidentiality. The Panel Secretariat reserves the right to redact information that appears commercially sensitive or relating to an individual. All responses will be provided to Ofwat.

A full list of consultation questions is below. Note that consultation begins with questions relating to the respondent, i.e. name, contact details, etc.

6.1 [Panel Purpose Consultation](#)

- Does there continue to be a need for some form of Panel as part of market-led governance? (please explain your answer).
- Section 4 outlines a hypothesis that a Panel exists to ensure that the market delivers against defined outcomes, enable market self-governance, provide a check and balance on industry self-interest and do so with minimal need for regulatory intervention.
 - a) Do you agree with this hypothesis? (please explain your answer)
 - b) What do you consider the core purpose of a Panel to be if different to the hypothesis outlined above?
- Regarding the strategic nature of a Panel:



- a) Do you think there is a distinction between a strategy for the market as a whole and a strategic approach to maintaining, operating and amending the codes? (Please explain your answer)
- b) If you draw such a distinction, who do you consider is responsible for each element, and who should be responsible in future, if different?
- c) How would a strategic approach to code development differ, if at all, from the current arrangements? (Please explain how this approach would fit with the progressing of individual code change proposals).
- Should a Panel have powers and responsibilities to (i) develop and govern market rules; (ii) hold participants to account for compliance and performance and drive improvement; (iii) resolve disagreements between participants? Please explain:
 - a) how far, and how (by considering what success looks like), each of the functions in (i), (ii) and (iii) should be carried out by a Panel
 - b) how far, and how, each of these functions should be carried out by other bodies or organisations
 - c) any other powers or responsibilities you feel a Panel should have.
- Do you agree with the list of Panel stakeholders as outlined in section 7? (please explain your answer and identify any missing stakeholders).
- Please consider the illustrative models presented in section 8, describe what you consider to be the advantages and disadvantages of the various elements of them, and how you would adopt or adapt them and any other attributes in a preferred model?
- What weight should be attached to each of the Panel composition considerations outlined in section 8, or to other considerations not outlined there, in developing your preferred model? (please explain your answer)
- What are your views on the current arrangements for nominating and appointing / electing Panel members and Panel Sub-Group / Committee members? If you would change these, why and in what way?
- Do you agree with the evaluation factors outlined in section 8? (If not, please explain why and suggest, with reasons, any additions, deletions, variants or alternatives.)
- Do you have any other comments?

6.2 [Panel Composition Consultation](#)

- What are your views on the proposed solutions when compared against the current arrangements?
- Do you believe either of these changes will deliver improved customer outcomes? Please explain your answer.



- Do you believe either of these changes will increase industry engagement? Please explain your answer.
- What elements of the proposed solutions do you agree or disagree with?
- What are your views on the composition and appointment mechanisms of the Panel proposed under CPM021? (e.g. Balance of Trading Party to Non-Trading Party, nominees elected)
- What are your views on the composition and appointment mechanisms of the Panel proposed under CPM039? (e.g. Balance of Trading Party members to Non-Trading Party members and members selected by committee)
- Which of the two proposed solutions is your preferred choice? Please explain your answer.
- Are there any other variations of the proposed solutions which should be considered?
- Do you have any other comments?
- Do you wish to keep any of your responses confidential and if so which?

6.3 Code Principles Consultation

- Do you consider that the proposed principles would better facilitate decision-making by the Panel? Please explain your answer.
- Do you consider that the proposed principles would better facilitate customer benefits and innovation in the market? Please explain your answer.
- Do you consider that the proposed principles would better facilitate effective competition in the market (e.g. effective operation of the market and market entry)? Please explain your answer.
- Are there any principles that should be included but are not included in the proposed solution for CPM040 / CPW121? Please provide the rationale for including each missing principle.
- Are there any principles in the proposed solution for CPM040/CPW121 that should be excluded? Please provide your rationale for each excluded principle.
- Can you identify any impacts (direct or indirect) on customers?
- Can you identify any impacts (direct or indirect) on Trading Parties?
- Can you identify any impacts (direct or indirect) on Panel?
- Can you identify any impacts (direct or indirect) on MOSL?